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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/276,273

03/25/1999

TYLER LOWREY

2024.17

1882

24963

7590

06/30/2004

ENERGY CONVERSION DEVICES, INC.
2956 WATERVIEW DRIVE
ROCHESTER HILLS, MI 48309

EXAMINER

CAO, PHAT X

ART UNIT

PAPER NUMBER

2814

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/276,273

Applicant(s)

LOWREY ET AL.

Examiner

Phat X. Cao

Art Unit

2814

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

THE REPLY FILED 13 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached papers.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 258-268

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

ADVISORY ACTION

Claims 1-257 and 269-275 are cancelled.

Regarding claims 258-268, Applicant argues that it is not obvious to combine the references because Tanahashi provides no teaching or suggestion of using the contact structure as a contact structure for providing an electrical pathway to a programmable resistance memory material.

This argument is not persuasive because as clearly suggested by Tanahashi, the using of the contact structure 53 shown in figure 3C would provide a semiconductor device with reduced contact resistance (column 3, lines 62-65). Therefore, it would have been obvious to combine the references as suggested. It should be noted that the reason or motivation to modify the reference may often suggest what the inventor has done, but for a different purpose or to solve a different problem. It is not necessary that the prior art suggest the combination to achieve the same advantage or result discovered by applicant. In re Linter, 458 F. 2d 1013, 173 USPQ 560 (CCPA 1972).

Regarding claim 261, Gonzalez does teach the hole may be replaced by a trench 24 (see Fig. 4 and column 6, lines 55-57).

Regarding claim 260, Gonzalez further teaches the forming of the conductive material 38 (see Fig. 6) over a portion of the bottom surface of the opening 16 (see Fig. 2).

PC
June 28, 2004


PHAT X. CAO
PRIMARY EXAMINER